

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NICOLAI MORK,

Plaintiff,

v.

PERRY RUSSELL, et al.,

Defendants.

Case No. 3:21-cv-00077-MMD-WGC

ORDER

I. DISCUSSION

On September 23, 2021, the Court issued a screening order permitting some of Plaintiff's claims to proceed and dismissing other claims without prejudice and with leave to amend. (ECF No. 7.) The Court granted Plaintiff 30 days from the date of that order to file an amended complaint curing the deficiencies of the complaint. (*Id.*) The Court specifically stated that if Plaintiff chose not to file an amended complaint, the action would proceed only on the colorable claims in the complaint, as determined in the screening order. (*Id.* at 14.) The 30-day period to file an amended complaint has now passed, and Plaintiff has not filed an amended complaint. Pursuant to the screening order, this action will proceed only on the colorable claims in Plaintiff's complaint, as determined in the Court's screening order.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's screening order (ECF No. 7), this action will proceed only on the colorable claims in Plaintiff's complaint, as determined in the Court's screening order.

IT IS FURTHER ORDERED that given the nature of the claim(s) that the Court has permitted to proceed, this action is stayed for 90 days to allow Plaintiff and Defendant(s) an opportunity to settle their dispute before an answer is filed, or the discovery process begins. During this 90-day stay period and until the Court lifts the stay, no other pleadings or papers may be filed in this case, and the parties will not engage in any discovery, nor

1 are the parties required to respond to any paper filed in violation of the stay unless
2 specifically ordered by the Court to do so. The Court will refer this case to the Court's
3 Inmate Early Mediation Program, and the Court will enter a subsequent order.
4 Regardless, on or before 90 days from the date this order is entered, the Office of the
5 Attorney General will file the report form attached to this order regarding the results of the
6 90-day stay, even if a stipulation for dismissal is entered prior to the end of the 90-day
7 stay. If the parties proceed with this action, the Court will then issue an order setting a
8 date for Defendants to file an answer or other response. Following the filing of an answer,
9 the Court will issue a scheduling order setting discovery and dispositive motion deadlines.

10 IT IS FURTHER ORDERED that "settlement" may or may not include payment of
11 money damages. It also may or may not include an agreement to resolve Plaintiff's issues
12 differently. A compromise agreement is one in which neither party is completely satisfied
13 with the result, but both have given something up and both have obtained something in
14 return.

15 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from
16 the inmate mediation program, that party will file a "motion to exclude case from
17 mediation" no later than 21 days prior to the date set for mediation. The responding party
18 will have 7 days to file a response. No reply will be filed. Thereafter, the Court will issue
19 an order, set the matter for hearing, or both.

20 IT IS FURTHER ORDERED that the Clerk of the Court will electronically SERVE
21 a copy of this order, the original screening order and a copy of Plaintiff's complaint on the
22 Office of the Attorney General of the State of Nevada, by adding the Attorney General of
23 the State of Nevada to the docket sheet. This does not indicate acceptance of service.

24 IT IS FURTHER ORDERED that the Attorney General's Office will advise the Court
25 within 21 days of the date of the entry of this order whether it will enter a limited notice of
26 appearance on behalf of Defendants for the purpose of settlement. No defenses or

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1 objections, including lack of service, will be waived as a result of the filing of the limited
2 notice of appearance.

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4 DATED THIS 24th day of November 2021.

5 *William G. Cobb*

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United States Magistrate Judge

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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 NICOLAI MORK,

7 Plaintiff,

8 v.

9 PERRY RUSSELL, *et al.*,

10 Defendants.

Case No. 3:21-cv-00077-MMD-WGC
REPORT OF ATTORNEY GENERAL
RE: RESULTS OF 90-DAY STAY

11 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL WILL FILE THIS FORM.**
12 **THE INMATE PLAINTIFF MAY NOT FILE THIS FORM.**

13 On _____ [*the date of the issuance of the screening order*], the Court
14 issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C.
15 § 1915A, and that certain specified claims in this case would proceed. The Court ordered
16 the Office of the Attorney General of the State of Nevada to file a report 90 days after the
17 date of the entry of the Court's screening order to indicate the status of the case at the
18 end of the 90-day stay. By filing this form, the Office of the Attorney General hereby
19 complies.

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REPORT FORM

[Identify which of the following two situations (identified in bold type) describes the case, and follow the instructions corresponding to the proper statement.]

Situation One: Mediated Case: The case was assigned to mediation by a court-appointed mediator during the 90-day stay. [If this statement is accurate, check **ONE** of the six statements below and fill in any additional information as required, then proceed to the signature block.]

_____ A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

_____ A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. (If this box is checked, the parties are on notice that they must SEPARATELY file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for _____ [enter date].

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.

_____ None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

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Situation Two: Informal Settlement Discussions Case: The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations. [If this statement is accurate, check **ONE** of the four statements below and fill in any additional information as required, then proceed to the signature block.]

_____ The parties engaged in settlement discussions and as of this date, the parties have reached a settlement (even if the paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

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_____ The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this _____ day of _____, _____ by:

Attorney Name:	_____	_____
	Print	Signature

Address:	_____	Phone: _____
	_____	_____
		Email: _____
